

the request, or among two or more organizational units of the Department having a substantial interest in the subject matter of the request.

[60 FR 11904, Mar. 3, 1995]

Subpart F—Disclosure of Records and Refusal To Disclose

§ 15.51 Authority to release records or copies.

The Office of the Executive Secretariat in Headquarters and the FOIA liaisons in each Field Office are authorized to release copies of any Department records upon written request unless disclosure is clearly not appropriate under this part.

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§ 15.52 Authority to deny requests for records.

The officers described in § 15.51, or other official designated by the Secretary's Representative, may deny a request for a record only with the concurrence of the appropriate program counsel in Headquarters or counsel in the Field Offices. Any denial shall:

- (a) Be made in writing, describing the documents denied and, if fewer than 21, listing them specifically;
- (b) Contain a simple reason for the denial, stating the appropriate exemption used; and
- (c) Advise of the right to appeal the adverse determination, in accordance with § 15.61, to the:
 - (1) General Counsel, with respect to a denial issued by the Office of Executive Secretariat or by offices in which there is a Field Assistant General Counsel; and
 - (2) Field Assistant General Counsel, with respect to a denial issued by Field Offices.

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§ 15.54 Business information.

(a) *In general.* Business information provided to the Department by a submitter shall not be disclosed pursuant to a FOIA request except in accordance with this section.

(b) *Definitions.* As used in this section:

Business information means commercial or financial information provided

to the Department by a submitter that arguably is protected from disclosure under Exemption 4 (42 U.S.C. 552(b)(4)) of the Act.

Submitter means any person or entity who provides business information, directly or indirectly, to the Department. The term includes, but is not limited to, corporations, State governments, and foreign governments.

(c) *Designation of business information.* A submitter's claim that certain information is confidential or proprietary should be supported by a statement or certification by an officer or authorized representative of the submitter that the information is, in fact, confidential or proprietary and has not been disclosed to the public. All information considered confidential or proprietary by a submitter should be clearly designated with a prominent stamp, typed legend, or other suitable form of notice, stating "Confidential Treatment Requested by [insert name of submitter]", which should appear on each page or segregable portion of the page. If such marking is impractical, a cover sheet prominently marked "Confidential Treatment Requested by [insert name of submitter]" should be securely attached to the information for which confidential treatment is requested. These designations shall be deemed to have expired 10 years after the date of the submission, unless the submitter requests, and provides reasonable justification for, a longer period of designation.

(d) *Notice to submitter.* To the extent permitted by law, the Department shall provide a submitter with prompt written notice of a FOIA request or administrative appeal encompassing its business information, unless notice is excused under paragraph (h) of this section. Such notice shall afford the submitter an opportunity to object to disclosure pursuant to paragraph (f) of this section. The notice shall either describe the exact nature of the business information requested or provide copies of the records or portions thereof containing the business information. The Department will provide this notice whenever:

(1) The information has been designated in good faith by the submitter